

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREG K. TOLBERT,

Petitioner,

No. CIV S-99-2149 LKK GGH P

vs.

CHERYL K. PLILER, et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding through counsel, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On June 10, 2003, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed June 10, 2003, are adopted in full;

3 and

4 2. Respondent's January 13, 2000, motion for summary dismissal is granted as to
5 the following claims on grounds that they are not exhausted: 1) ineffective assistance of counsel
6 based on counsel's failure to protect petitioner's speedy trial rights; and 2) improper admission of
7 evidence that petitioner gave a false name; respondent's motion is denied in all other respects;
8 respondent is ordered to file an answer to the petition within thirty days.

9 DATED: May 31, 2005.

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11 /s/Lawrence K. Karlton
UNITED STATES DISTRICT JUDGE

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